

City of Morgan Hill Utility Undergrounding Fee Deferral Program Program Summary

In general terms, the program enables new and expanding businesses to defer up to 80% of their utility undergrounding fees for a period not to exceed five years. Eligible property owners must pay a minimum of 20% of their utility undergrounding fees prior to obtaining building permits. The balance would be financed under the Program as a normally amortized loan requiring equal monthly payments over a term that would not be longer than 5 years. Interest, at the Local Agency Investment Fund (LAIF) rate plus ½% at the time the loan was initiated would be incorporated into the payments. Prepayment is permitted without penalty.

Eligibility

1. Applicants must be either a new or expanding business within the City limits of Morgan Hill.
2. Only utility undergrounding fees for commercial or industrial projects may be deferred.
3. The program is only available to business owners that own (have fee title to) the real property they currently or will soon occupy.

Program Requirements

1. Fee deferral requests in excess of \$50,000.00 must be individually approved by the City Council.
2. Participants must pay a minimum of 20% of their utility undergrounding fees and have their Program loan approved prior to being issued any permits beyond foundation permits.
3. The loan/deferral term may not exceed either 60 monthly installment payments, or a period of 5-years.
4. Payments on the deferral/loan amount will be amortized based on the Local Agency Investment Fund rate plus one-half percent (LAIF + ½%).

Security Requirements

For fee deferral/loans of \$10,000 or less:

1. Borrower shall, at a minimum, execute an Agreement and Promissory Note.
2. In the event of default, the City may invoke any or all of the following:
 - a. Terminate the Agreement and commence action against Borrower for any damages resulting from the default;
 - b. Commence an action for specific performance of the terms of this Agreement;
 - c. Declare all deferred fees and accruing interest immediately due and payable, with City released from any and all further obligations to Borrower under the terms of the agreement; and/or
 - d. Cause City provided water utility service to the Property to be discontinued upon at least two (2) days prior written notice to Borrower.
3. City Manager may impose other conditions to minimize risk to the City.

For Fee deferral/loans of more than \$10,000:

1. Borrower shall execute the Agreement and Promissory Note and provide at least one of the following:
 - a. A deposit of money with either the City, a bank, or a responsible escrow or trust company, as approved by the City;
 - b. An instrument or letter of credit from one or more financial institutions subject to regulation by state or federal government, pledging that the funds needed to complete the Agreement are on deposit and are guaranteed for payment;
 - c. A deed of trust in real property where the total indebtedness does not exceed 85% of the appraised value. (Borrower requesting such form of security shall pay all costs associated with escrow and title fees related to this security.) City may also require a personal guaranty with this form of security.
2. City Manager may impose other conditions to minimize risk to the City.

3. In the event of a default, in addition to the remedies specific to the forms of security listed above, the City thirty (30) days after having given notice, may suspend water utility service to the Property until all defaults are cured.

The City Manager, or his designee, may reject any deferral where he believes there is inadequate security or where the potential for payback appears to be in jeopardy.

Fees not paid by the Borrower will become an obligation of successor property owners until fully paid.

The City Manager may suspend this program at any time he determines that the undergrounding fund is negatively affected by continuation of the program.